

REMARKS

Applicant expresses appreciation for the telephonic Examiner's Interview that was conducted on Thursday, January 29, 2009, wherein the present invention was discussed in light of the art of record. Specifically, the Applicant understands, based on the telephonic interview and the Interview Summary document, that the cited references would be overcome by positively claiming (1) the wall surface, and (2) the precise orientation of the plate and flange with respect to the wall surface. Applicant further understands that the proposed amendments appear to overcome the current rejections, pending review of the amendments by the Examiner on the Request for Continued Examination. In light of the discussion during the telephonic interview, the following remarks are presented.

In the Office Action mailed from the United States Patent and Trademark Office on January 29, 2009, the Examiner rejected claims 1, 4 and 6 under 35 U.S.C. 103(a) as being unpatentable over Goldhaber (United States Patent No. 4,175,357, hereinafter "Goldhaber"), rejected claims 2-3, 8, 10-11, 13-16, and 18 under 35 U.S.C. 103(a) as being unpatentable over Goldhaber in view of Cotton Jr. (United States Patent No. 6,588,159, hereinafter "Cotton Jr."), rejected claim 7 under 35 U.S.C. 103(a) as being unpatentable over Goldhaber in view of McLaughlin (United States Patent No. 5,490,353, hereinafter "McLaughlin"), rejected claims 12 and 17 under 35 U.S.C. 103(a) as being unpatentable over Goldhaber in view of Cotton Jr. as applied to claim 8 or 13, and further in view of McLaughlin, and rejected claims 8-11, and 13-16 under 35 U.S.C. 103(a) as being unpatentable over Tizzoni (United States Patent No. 4,974,366, hereinafter "Tizzoni"). Accordingly, Applicant respectfully provides the following:

Rejections under 35 U.S.C. §103

In the Office Action, the Examiner rejected claims 1, 4 and 6 under 35 U.S.C. 103(a) as being unpatentable over Goldhaber, rejected claims 2-3, 8, 10-11, 13-16, and 18 under 35 U.S.C. 103(a) as being unpatentable over Goldhaber in view of Cotton Jr., rejected claim 7 under 35 U.S.C. 103(a) as being unpatentable over Goldhaber in view of McLaughlin, rejected claims 12 and 17 under 35 U.S.C. 103(a) as being unpatentable over Goldhaber in view of Cotton Jr. as applied to claim 8 or 13, and further in view of McLaughlin, and rejected claims 8-11, and 13-16 under 35 U.S.C. 103(a) as being unpatentable over Tizzoni. Applicant respectfully submits that the claim set as provided herein is not made obvious by the cited references. In particular, Applicant respectfully submits that the references cited by the Examiner do not teach or suggest a wall surface having a first plane, and t-shaped elongate core substrate having a lateral plate and a flange, wherein the lateral plate is coupled to the wall surface in the first plane, and the flange extends outwardly from the lateral plate in a second plane that is substantially perpendicular to the first plane. Thus, Applicant respectfully submits that the references provided by the Examiner do not teach or suggest all of the limitations of the claims provided herein.

The Supreme Court in *KSR v. Teleflex*, 550 U.S. 398, 127 S. Ct. 1727 (2007) held that the factors a court will look at when determining obviousness and non-obviousness in the United States, are those factors outlined by the Supreme Court in *Graham et al. v. John Deere Co. of Kansas City et al.*, 383 U.S. 1 (1966), commonly referred to as the "Graham factors". The court held that obviousness should be determined by looking at the four "Graham factors" including: 1) the scope and content of the prior art; 2) the level of ordinary skill in the art; 3) the differences between the claimed invention and the prior art; and 4) objective evidence of nonobviousness. In addition, the Court outlined examples of factors that show "objective evidence of

nonobviousness.” These factors include: 1) commercial success; 2) long-felt but unsolved needs; and 3) failure of others.

“The legal concept of *prima facie* obviousness is a procedural tool [that] ... allocates who has the burden of going forward with production of evidence in each step of the examination process.” MPEP §2142. “To reach a proper determination [of obviousness] under 35 U.S.C. 103, the examiner must step backward in time and into the shoes worn by the hypothetical “person of ordinary skill in the art” when the invention was unknown and just before it was made. In view of all factual information, the examiner must then make a determination whether the claimed invention “as a whole” would have been obvious at that time to that person.” *Id.* “If the examiner determines there is a factual support for rejecting the claimed invention under 35 U.S.C. 103, the examiner must then consider any evidence supporting the patentability of the claimed invention, such as any evidence in the specification or any other evidence submitted by the applicant. The ultimate determination of patentability is based on the entire record, by a preponderance of evidence, with due consideration to the persuasiveness of any arguments and any secondary evidence.” *Id.*

Applicant respectfully submits that the amended claims presented in this response overcome the references provided by the Examiner. Specifically, amended independent claim 1 recites an interior window covering frame assembly comprising: an elongate core substrate having a thickness of less than 5/16 inch, said elongate core substrate having an elongate lateral plate and a flange perpendicularly coupled to said lateral plate, the flange intersecting the elongate lateral plate to provide a first portion and a second portion to provide a cross-sectional t-shape, wherein said elongate lateral plate is coupled to an interior facing wall surface having a first plane, said elongate lateral plate being coupled to the interior facing wall surface in the first

plane, and the flange extending outwardly from the elongate lateral plate in a second plane that is substantially perpendicular to the first plane; a connecting channel coupled to at least one of a first face of said flange and to said first portion of said lateral plate; a window covering coupled to said first face of said flange; and a decorative covering abutting both a second face of said flange and said second portion of said lateral plate.

Amended independent claim 8 recites an interior window covering frame assembly for entirely framing an interior facing of a window opening, the assembly comprising: an elongate core substrate having an elastic modulus greater than 2.3E, said elongate core substrate having an elongate lateral plate and a flange perpendicularly coupled to said lateral plate, the flange intersecting said elongate lateral plate to provide a first portion and a second portion to provide a cross-sectional t-shape, wherein said elongate lateral plate is coupled to an interior facing wall surface having a first plane, said elongate lateral plate being coupled to the interior facing wall surface in the first plane, and the flange extending outwardly from the elongate lateral plate in a second plane that is substantially perpendicular to the first plane; a connecting channel coupled to at least one of the second portion of said lateral plate and a first portion of said flange; a window covering coupled to a second portion of said flange; and a decorative covering abutting at least one of a second portion of said lateral plate and a third portion of said flange.

Independent claim 13 recites an interior window covering frame system comprising: an interior facing wall surface having a first plane; an elongate core substrate comprising a lateral plate and a flange perpendicularly coupled to said lateral plate, the flange intersecting said lateral plate to provide a first portion and a second portion to provide a cross-sectional t-shape, wherein said lateral plate is coupled to said interior facing wall surface in a first plane, and wherein said flange extends outwardly from the lateral plate in a second plane that is substantially

perpendicular to the first plane, the elongate core substrate having a thickness of less than 5/16 inch and comprising at least one material having an elastic modulus greater than 2.3E; a connecting channel coupled to said elongate core substrate; a window covering coupled to said flange; and a decorative covering coupled to said elongate core substrate.

Independent claim 18 recites a method for anchoring an interior window covering to an interior facing surface of a wall, the wall having a first plane, said method comprising: providing a frame substrate that comprises a thickness of less than 5/16 inch and has, by volume, an elastic modulus greater than wood, and wherein said substrate further comprises a lateral plate and a flange perpendicularly coupled to said lateral plate, the flange dividing the lateral plate into a first portion and a second portion; coupling said lateral plate of said frame substrate to said wall surface in the first plane, wherein said flange extends outwardly from said lateral plate in a second plane that is substantially perpendicular to said first plane, and wherein said flange includes a mounting surface to receive a hinge attached to said interior window covering; using a connecting channel to interconnect a first portion of said frame substrate to a second portion of said frame substrate; coupling a decorative covering to said frame substrate; and coupling said hinge of said interior window covering to said flange.

Such limitations as recited in the amended independent claims are supported by the application as originally filed. In contrast, Applicant respectfully submits that none of the cited references, alone or in combination, teaches or suggests all of the claim limitations of independent claims 1, 8, 13, or 18 as provided herein. And, since the references cited by the Examiner do not teach or suggest each and every limitation of the independent claims, Applicant respectfully submits that the prior art references do not make obvious the independent claims. Moreover, since the prior art references do not make obvious the independent claims, Applicant

respectfully submits that the prior art references do not make obvious the corresponding dependent claims, which depend from the independent claims.

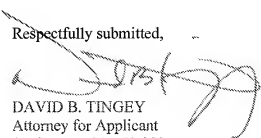
Thus, Applicant respectfully submits that for at least the reasons provided herein, the claim set as provided herein overcomes all rejections made by the Examiner in the Office Action.

CONCLUSION

Applicant submits that the amendments made herein do not add new matter and that the claims are now in condition for allowance. Accordingly, Applicant requests favorable reconsideration. If the Examiner has any questions or concerns regarding this communication, the Examiner is invited to call the undersigned.

DATED this 2nd day of March, 2009.

Respectfully submitted,



DAVID B. TINGEY
Attorney for Applicant
Registration No. 52,289

KIRTON & McCONKIE
1800 Eagle Gate Tower
60 East South Temple
Salt Lake City, Utah 84111
Telephone: (801) 321-4814
Facsimile: (801) 321-4893

DBT:DRC:wmc
1122149